IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition Nos.24310 and 25523 of 1997

Dated: 29-01-2007

Between:

1. C. Gyan Raj s/o late C.Ramchander,
   aged about 40 years,
   r/o 5-255 (old), 2-6-166 (New)
   Main road, Sanga Reddy,
   Medak District and others.

... Petitioners

and

1. The District Collector,
   Sangareddy,
   Medak District and others.

... Respondents

COMMON ORDER:

As the point involved in these two writ petitions is one and the same, these petitions are disposed of by a common order.

2. These petitions are filed seeking *mandamus* declaring the notices bearing No.D/7162/97, dated 18-09-1997, 19-09-1997 and 20-09-1997 issued by second respondent in respect of the houses bearing Nos.3-2-1 to 7 and 5-2-29/1 situated at Sangareddy, Medak District, as illegal and arbitrary and consequently direct the respondents not to interfere with the

peaceful possession and enjoyment of said buildings by the petitioners.

3. It is the case of the petitioners that they are the absolute owners of the properties in question and since the date of purchase of the said properties they have been in peaceful possession and enjoyment of the same. It is stated that to the utter surprise and dismay of the petitioners, second respondent got served a set of notices on 20-09-1997 at about 6-00 P.M., simultaneously, under the provisions of the Andhra Pradesh Land Encroachment Act, 1905 (for short, 'the Act'). It is further stated that the first notice is dated 18-09-1997 purporting to be under Section 7 of the Act calling upon the petitioners to show cause as to why before 20-09-1997 they should not be evicted from the land in question in addition to the full assessment of the property. The second notice is purported to be under Section 6 of the Act calling upon the petitioners to vacate the land within 24 hours from the service of notice, failing which they will be summarily evicted from the lands in question. The grievance of the petitioners is that the respondents having parked six bulldozers in Sangareddy threatened the petitioners that they should voluntarily vacate the premises by morning of 21-09-1997, failing which they will be constrained to demolish the steps in question by running the bulldozers over the same.

4. Heard learned counsel for the parties.

5. As rightly contended by learned Government Pleader, a right of appeal is provided under Section 10 of the Act and the petitioners without approaching the said appellate authority, in haste approached this Court and filed the present writ petitions. Hence, this court is of the view that all the grounds

urged by the petitioners in these two writ petitions, can as well be agitated before the appellate authority and on such filing of the appeal, the appellate authority may pass appropriate orders in accordance with law.

6. Accordingly, these writ petitions are disposed of directing the petitioners to file appeals under Section 10 of the Act, within a period of four weeks from the date of receipt of a copy of this order. On such appeals being filed, the appellate authority may pass appropriate orders in accordance with law, within three months from that date. However, pending disposal of the said appeals, there shall be a direction to the respondents not to dispossess the petitioners from the lands in question. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.29-01-2007
GLV